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Honorable Paul B. Snyder
Chapter 13
Tacoma, WA

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re:
DARREN ARTHUR CARLSON &
NATALIE RAE CARLSON,
Debtors,

Darren Arthur Carlson, & Natalie Rae
Carlson
Plaintiffs,
v.
GB Home Equity, LLC; Guaranty Bank;
Principal Bank;
Nationstar Mortgage; Mortgage Electronic
Registration Systems, Inc. (MERS),
Defendants

In Chapter 13 Proceeding
No. 13-44739 PBS

Adversary No.

**Complaint to Strip Junior
Mortgage Lien**

JURISDICTION

This Court has jurisdiction over this matter pursuant to 28 U.S.C. Sec. 157 and 28 U.S.C. Sec. 1334. This is a core proceeding.

PARTIES

The Plaintiffs are the Debtors in the underlying bankruptcy case and reside in Pierce County, Washington.

The Defendant, Nationstar Mortgage, the servicing agent for the original lender GB Home Equity, LLC, and the original beneficiary, Mortgage Electronic Registration Systems, Inc. (MERS), are the second mortgage holders on the Debtors’ property. Nationstar Mortgage is headquartered in Lewisville, Texas.

Liberty Law, LLC
6108 Community Pl. SW, Ste. 1
Lakewood, WA 98499
253-573-9111

1 Guaranty Bank is the successor in interest of GB Home Equity, LLC. Upon information and
2 belief, Principal Bank was a servicing agent at one time for the note in question.

3 **FACTS**

4 The real property of the Plaintiff/Debtor is located at 14021 174th Street Court East,
5 Puyallup, WA 98374 and is legally described in the Deed of Trust as:

6 Lot 25, REBECCA RIDGE, according to plat recorded May 11th, 2005 under Recording
7 Number 200505115005, in Pierce County, Washington. Situate in the County of Pierce, State of
8 Washington. Parcel ID Number 6024900250.

9 This property is the Debtors' principal place of residence.

10 **First Mortgage:** On or about December 19th, 2005, Debtors executed a Promissory Note and
11 Deed of Trust in favor of Homecoming Financial Network, Inc., in the amount of \$307,960.00
12 which is now held by Ocwen Loan Servicing, LLC, and has an approximate current balance at the
13 time of filing of the Chapter 13 petition of \$291,685.00. This Deed of Trust was recorded on or about
14 December 21st, 2005.

15 **Second Mortgage:** On or about December 19th, 2005, Debtors executed a Promissory Note
16 and Deed in Trust in favor of GB Home Equity, LLC, in the amount of \$38,450.00 which is now
17 held by Nationstar Mortgage. This Deed of Trust was recorded on December 21st, 2005, with the
18 Pierce County Auditor, recording number 200512210656-9-PGS. A proof of claim has not been
19 filed by the lender.

20 The Debtors have obtained a recent appraisal which indicates that the value of the property
21 is \$ 289,000.00.

22 **CAUSE OF ACTION**

23 11 U.S.C. Sec. 506(d) provides that to the extent a lien secures a claim against the Debtor
24 that is not an allowed secured claim, then the lien is void. The lien of Nationstar Mortgage, the
25 servicing agent for the original lender, GB Home Equity, LLC, and is a wholly unsecured claim
26 based on the appraisal value of \$289,000.00 an the underlying first mortgage balance of
27

28 **Liberty Law, LLC**
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1 \$291,685.00.

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4 **PRAYER**

5 Wherefore the Plaintiffs/Debtors request as follows:

6 1. For an Order determining that the second mortgage debt owed to Nationstar Mortgage,
7 the servicing agent for the original lender, GB Home Equity, LLC, and the original beneficiary,
8 MERS, is wholly unsecured.

9 2. For an Order removing the second mortgage lien of Nationstar, the servicing agent for
10 the original lender GB Home Equity, and the original beneficiary, MERS, from the title to the
11 described property upon the successful discharge of the Debtors.

12 3. For such further relief as the Court deems just and equitable.

13
14 Dated: October 15th, 2013.

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16
17 /s/ Maria Stirbis
18 Maria Stirbis, WSBA 26048
19 Attorney for Plaintiffs/Debtors
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